

Attorney for Defendant State of Montana

KEITH CHROMEY and MERRY
JO RICHARDS

Plaintiffs,

-v-

MONTANA DEPARTMENT OF
ENVIRONMENTAL QUALITY,
MARVIN and SANDY MINTYALA

Defendants.

CAUSE NO. DV-2013-17

STATE OF MONTANA

Cross-claim Plaintiff

-Y-

MARVIN and SANDY MINTYLA

Cross-claim Defendants

**DEFENDANT STATE OF MONTANA'S
RESPONSES TO PLAINTIFFS' FIRST
DISCOVERY REQUESTS**

STATE OF MONTANA

Third-party Plaintiff

-Y-

MR. M DISPOSAL INC., and TINA
MINTYALA-STRICKER

Third-party Defendants

Please deadhead
to: Mike King
DOA - RMTD

VERIFICATION

STATE OF MONTANA)
 :SS
County of Lewis and Clark)

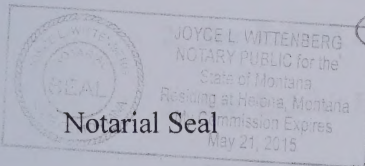
Tim Stepp, being duly sworn upon oath, states he has read the foregoing and believes that the answers are true and correct to the best of his knowledge, information, and belief.

Executed this 6th day of March, 2015, at Helena, MT.

BY:

Tim Stepp
Tim Stepp

Subscribed and sworn to this 6th day of March, 2015.



Joyce L. Wittenberg
NOTARY PUBLIC FOR THE
STATE MONTANA

Residing at Helena, MT
My Commission expires May 21, 2015

MEMORANDUM

DATE: 10/10/54

TO: Mr. Tolson

FROM: Mr. Clegg
SUBJECT: [Illegible]

RE: [Illegible]

1. [Illegible]

2. [Illegible]

Very truly yours,
[Illegible Signature]

Special Agent in Charge
[Illegible Name]

REQUEST FOR PRODUCTION NO. 1: Please produce a copy of the

following documents:

1. Overall Site Map of landfill and Landfill Closure Report, Portage Environmental, Inc., December 1999.
2. Landfill Master Plans, R. W. Gillespie & Associates, dated 2/25/97.
3. Stormwater Management Report, R. W. Gillespie & Associates, February 1997.
4. Letter – Liner Revisions for Stormwater Ponds, R. W. Gillespie & Associates Engineering, October 2, 1996.

RESPONSE:

1. *See*, Exhibits A, B, and C
2. *See*, Exhibit D
3. *See*, Exhibit E
4. *See*, Exhibit F

Dated this 5th day of March, 2015.

BY: _____
Michael R. King

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was served by U.S.

Mail, postage prepaid, this 5th day of March, 2015 upon:

Torger Oaas
Attorney At Law
618 West Main, Ste. 201
POB 76
Lewistown, MT 59457

Mark M. Smith
Church, Harris, Johnson & Williams, P.C.
114 Third Street South
P. O. Box 1645
Great Falls, MT 59403-1645

BY: _____

Michael R. King

County

Irgas

Facility & #

Closure

Landfarm

Finan Assur

Liner

GW Corr Meas

Methane

GW Monitoring

O & M

GW Reports

Run-on

Inspections

Other:

Mistee M -

CLERK OF THE
DISTRICT COURT
PHYLLIS D. SMITH

2014 JUL 11 AM 9 53

FILED
BY *Gayle D. Roney*
DEPUTY

**MONTANA TENTH JUDICIAL DISTRICT COURT
FERGUS COUNTY**

**STATE OF MONTANA ex rel.
DEPARTMENT OF ENVIRONMENTAL
QUALITY,**

Plaintiff,

vs.

**MARVIN MINTYALA and SANDY
MINTYALA, d/b/a MISTER "M"
DISPOSAL, MISTER "M" DISPOSAL,
INC. and LEWISTOWN LANDFILL,**

Defendants.

Case No. DV-2012-79

Jon A. Oldenburg, Judge

**DEFAULT JUDGMENT RENEWING
JUDGMENT ENTERED
SEPTEMBER 13, 2012**

This matter came before the Court on the Plaintiff's ("DEQ's") Motion and Brief in Support of Default Judgment to Renew Judgment entered September 13, 2012, having reviewed the same, Defendants having failed to appear or otherwise respond, and being fully informed on the premises, the Court hereby,

ORDERS that:

1. A judgment of default shall be entered in this matter.
2. The Original Judgment entered by the Court on September 13, 2012, in the matter captioned, *State of Montana ex rel. Department of Environmental Quality v. Marvin Mintyala and Sandy Mintyala, d/b/a Mister "M" Disposal, Mister "M" Disposal, Inc., and Lewistown Landfill*, 10th Judicial District Court, No. DV-2000-146 is renewed.

CLERK OF THE
DISTRICT COURT
CHAS. E. SMITH

Oct 11, 1913

[Signature]

NOTARY PUBLIC
DISTRICT COURT

Case No. 10-101-10
Judge

IN WITNESS WHEREOF
I have hereunto set my hand
at Chicago, Ill., this 11th day of October, 1913.

NOTARY PUBLIC
STATE OF ILLINOIS
My Comm. Expires _____
I hereby certify that _____
of the County of _____
State of Illinois, is the person
who has been duly appointed
Notary Public for the County of _____
State of Illinois, and that he
has taken the oath of office
and qualification required by law.

Witness my hand and seal of office at Chicago, Ill., this 11th day of October, 1913.

Notary Public

1. The undersigned is a Notary Public for the County of _____ State of Illinois, and is duly qualified to perform the duties of such office.

2. The undersigned is a Notary Public for the County of _____ State of Illinois, and is duly qualified to perform the duties of such office.

3. The undersigned is a Notary Public for the County of _____ State of Illinois, and is duly qualified to perform the duties of such office.

3. Defendants are directed, ordered, and enjoined to:

- a. undertake monitoring of the ground water at the Landfill as required by paragraph 1 at page 13 of the Original Judgment;
- b. submit a ground water monitoring plan and an updated Sampling and Analysis Plan as required by paragraph 2 at page 13 of the Original Judgment;
- c. monitor and report methane levels as required by paragraph 3 at page 14 of the of the Original Judgment;
- d. pay the total amount required of \$318,363.26 as required by paragraph 4 (\$12,037.26) at page 14 and paragraph 8 (\$305,326.00) at page 14 and paragraph 11 (\$1,000.00) at page 15 of the Original Judgment;
- e. provide a post-closure financial assurance mechanism in the amount of \$305,326.00 as required by paragraph 5 at page 14 of the of the Original Judgment;
- f. provide an updated closure cost estimate as required by paragraph 9 at page 15 of the of the Original Judgment; and,
- g. provide an updated post-closure care cost estimate required by paragraph 10 at page 15 of the of the Original Judgment.

4. Defendants shall pay the amounts described in ordering paragraph 3 by check or money order, made payable to "Department of Environmental Equality," and sent to:

John L. Arrigo, Administrator
Enforcement Division
Department of Environmental Equality
P.O. Box 200901
Helena, MT 59620-0901

Defendants are directed, advised and requested to

submit a statement of the actual value in the hands of the

1 in page 17 of the Original Judgment.

b. Submit a general value statement of the value of the property and

the value of the property in paragraph 3 of the Original Judgment.

c. Submit a value statement of the value of the property in paragraph 3 of the Original Judgment.

the Original Judgment.

d. The value statement of the value of the property in paragraph 4

of the Original Judgment (1985, 1986, 1987) at page 16 and paragraph 5

of the Original Judgment.

e. The value statement of the value of the property in the amount of

\$100,000 as reported in paragraph 5 of page 16 of the Original

Judgment.

f. The value statement of the value of the property in paragraph 5 of page 16 of the Original Judgment.

the value of the property.

g. The value statement of the value of the property in paragraph 5 of page 16 of the Original Judgment.

the value of the property.

4. Defendants shall pay the amount of the value of the property in paragraph 5 of page 16 of the Original Judgment.

to the value of the property in paragraph 5 of page 16 of the Original Judgment.

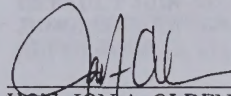
1st of April 1988
1st of April 1988
1st of April 1988
1st of April 1988
1st of April 1988
1st of April 1988

5. This Court retains jurisdiction to enforce the requirements of Montana law and rule, and compliance with orders and judgments entered in this case, until the end of the 30-year post-closure period.

6. The Telephonic Status Conference set in this matter for July 15, 2014 is hereby VACATED.

The Clerk of District Court is directed to file this Order Dismissing Appeal and provide copies to counsel of record and the party appearing *pro se*.

Dated this 11 day of July, 2014.



HON. JON A. OLDENBURG,
District Court Judge

This Court is hereby ordered to enforce the requirements of the law and the rules of the Court with regard to the payment of the fee of \$100.00 per

document filed.

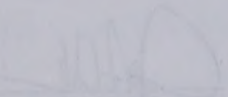
A. The Clerk of the Court is directed to enforce the fee of \$100.00 per document filed.

VACATED

This order of the Court is entered in the Clerk of the Court's Office and the Clerk of the Court is directed to enforce the fee of \$100.00 per document filed.

copies of this order of the Court are to be filed in the Clerk of the Court's Office.

Done this 11th day of July, 2014.



Hon. J. A. [illegible]
Clerk of the Court

CLERK OF THE
DISTRICT COURT
PHYLLIS D. SMITH

2014 JUL 11 AM 9 53

MONTANA TENTH JUDICIAL DISTRICT COURT
FERGUS COUNTY

FILED
BY *[Signature]*
DEPUTY

STATE OF MONTANA ex rel.
DEPARTMENT OF ENVIRONMENTAL
QUALITY,

Plaintiff,

vs.

MARVIN MINTYALA and SANDY
MINTYALA, d/b/a MISTER "M"
DISPOSAL, MISTER "M" DISPOSAL,
INC. and LEWISTOWN LANDFILL,

Defendants.

Case No. DV-2012-79

Jon A. Oldenburg, Judge

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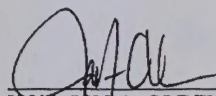
John L. Arrigo, Administrator
Enforcement Division
Department of Environmental Equality
P.O. Box 200901
Helena, MT 59620-0901

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The Clerk of District Court is directed to file this Order Dismissing Appeal and provide copies to counsel of record and the party appearing *pro se*.

Dated this 11 day of July, 2014.



HON. JON A. OLDENBURG,
District Court Judge

County Missouri
Facility & # 302 - MR. M
Closure Landfarm
Finan Assur Liner
GW Corr Meas Methane
GW Monitoring O & M
GW Reports Run-on
Inspections
Other: Legel

Tim Stepp 4/29/15

Stepp, Tim

From: King, Michael
Sent: Wednesday, April 29, 2015 10:31 AM
To: David, Dana; Mullen, Norman; Thompson, Ricknold; Stepp, Tim
Subject: FW: Message from DOA-RMTD-03
Attachments: SDOA-RMTD-015042910260.pdf

Dana, Norm, Rick, and Tim – attached is a copy of the State’s reply brief supporting its second summary judgment motion on the issue of expert testimony. The Court has ordered oral argument on all pending motions for 5/11.

Please log
 "Mr. M Legal"
 & file. Thx

ENTERED

100-800000-12

SEARCHED

INDEXED

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FILED

APR 12 1962

APR 12 1962

APR 12 1962

APR 12 1962

APR 12 1962

APR 12 1962

These items are not to be removed from the file. The items are to be kept in the file for the purpose of the investigation.

Attorney for Defendant State of Montana

KEITH CHROMEY and MERRY
JO RICHARDS

-V-

Defendants.

STATE OF MONTANA

-V-

Cross-claim Defendants

STATE OF MONTANA

-v-

Third-party Defendants

I. Introduction

In their answer brief, Plaintiffs do not dispute that expert testimony is necessary to establish: 1) that the pond is the source of the water in their house, 2) the applicable standard of care for maintenance of the pond, 3) that anyone responsible for pond maintenance departed from that standard, 4) that any such departure caused them any harm, and 5) for statute of limitations purposes, that the source of the water in their house is reasonably abatable (*i.e.*, not permanent). Because they have not disclosed the necessary expert testimony on these matters, their nuisance claim should be dismissed with prejudice.

II. Plaintiffs' Summary Judgment Burden

To successfully oppose a summary judgment motion, the non-moving party has an "affirmative duty" to produce "specific facts" that create a genuine issue of material fact for trial. Patten v. Raddatz, 271 Mont. 276, 282 (1995); Koepplin v. Zortman Mining, Inc., 267 Mont. 53, 58-59 (1994). Here, those specific facts must take the form of admissible expert testimony establishing: 1) that the pond is the source of the water in their house, 2) the applicable standard of care for maintenance of the pond, 3) that anyone responsible for pond maintenance departed from that standard, 4) that any such departure caused them any harm, and 5) for statute of limitations purposes, that the source of the water in Plaintiffs' house is reasonably abatable (*i.e.*, not permanent).

III. Undisputed Facts

In addition to the facts set forth in the “Undisputed Facts” section of the State’s opening brief, the following facts are undisputed:

- 1) The State did not install the clay liner in the pond. **Affidavit of Tim Stepp and Affidavit of Rick Thompson;**
- 2) Installation of a clay liner in the pond did not depart from the standard of care but, in fact, exceeded the standard of care as no liner of any sort was necessary. *Id.*

IV. Legal Argument

A. Plaintiffs’ Failure To Disclose Necessary Expert Testimony Establishing That The Pond Is The Source Of The Water In Their House Requires Dismissal Of Their Nuisance Claim

Plaintiffs do not dispute that expert testimony is necessary to establish their claim that the pond is the source of the water in their house. Their reliance on the unsworn and unauthenticated Church Report to provide the necessary expert testimony lacks merit for two reasons.

First, based on information he did not possess on or before October 4, 2010, Mr. Church testified at his deposition that he no longer believes the pond is the primary source of the water in Plaintiffs’ house and that he cannot say whether it even is a source and, if so, to what degree. *See, Ex. C* to the State’s reply brief supporting its first summary judgment motion (Church Depo., pp. 26-28, ll. 17-2,

p. 34, ll. 1-24, p. 45, ll. 3-20). Thus, the unsworn Church report is not only irrelevant but, more importantly, is simply not Mr. Church's sworn expert testimony. It cannot defeat the State's second summary judgment motion.

Gilchrist v. Aristorenas, 2008 Tenn. App. LEXIS 698, **2-17 (where patient's expert witness in a medical malpractice case changed his opinion and gave deposition testimony that the physician's care of the patient did not depart from the standard of care, the physician was entitled to summary judgment); State of New York v. Davis, 866 N.Y.S.2d 864, 864-67 (where state's expert in a case seeking "civil management" of a sex offender changed her opinion and gave testimony that the respondent did not suffer from a mental abnormality, there was no issue of fact for a jury to consider and respondent was entitled to summary judgment).

Second, the unsworn and unauthenticated Church report is inadmissible hearsay. Rule 56(e), M.R.Civ.P.; Alfson v. Allstate Prop. & Cas. Ins. Co., 372 Mont. 363, ¶12 (2013) ("Without an affidavit or sworn discovery response of an individual with personal knowledge of the genuineness, relevance and contents of documents as required by Mont. R. Civ. P. 56(e)(1), the attachments to a summary judgment motion are little more than inadmissible hearsay"); Victory Ins. Co. v. Mont. State Fund, 378 Mont. 388 (2015) ("Victory's last-minute expert disclosure was not in affidavit form . . ."); Weaver v. Jungbauer, 1999 Mont. Dist. LEXIS 297, **8-10 (J. McKeon) (disregarding unsworn and unauthenticated expert

witness disclosures on summary judgment motion); *see, also*, FNBN-RESCON I LLC v. Ritter, 2014 U.S. Dist. LEXIS 130128, **12-13 (D. Nev. 2014) (“courts in the Ninth Circuit have routinely held that unsworn expert reports are inadmissible”). Thus, the unsworn and unauthenticated Church report does not satisfy Plaintiffs’ duty to produce, in response to the State’s second summary judgment motion, specific facts in the form of admissible expert witness testimony establishing that the pond on a “more likely than not” basis is the source of the water into their house. It cannot be considered in connection with the State’s second summary judgment motion. Alfson, *supra* at ¶13.

Realizing that the unsworn and unauthenticated Church report cannot, for the reasons discussed above, defeat the State’s second summary judgment motion, Plaintiffs assert on p. 3 of their answer brief that Mr. Church testified at his deposition that the pond was a contributing source of the water in their house. This assertion is baseless and not supported by citation to Mr. Church’s deposition. Mr. Church testified that it is merely “possible” that the pond could be a contributing source but he could not say it was a contributing source:

Q. When you say "primary," what do you mean?

A. Well, I mean, the fact that we can only get a foot of water in there now and we've had more water in there in the past without water intrusion tells me that there has to be another source than the pond. Now, is it possible that during those events where there is more water in the pond that the pond is a contributor, **it is certainly possible.**

* * *

Q. And so now you think that the groundwater could be a source of their issues based on the, based on the evidence that you've seen after you put together your report?

A. Yes.

Q. And that the ponds at most would be a contributing factor?

A. **I would say at most, yes.**

Q. And that even that itself is unlikely?

A. **At this point in time I really can't speak to how likely it is.** I only know that there appeared to be intrusion, or there appears to be water intrusion that is not directly tied to the water level in the pond; there are events that have occurred. So that tells me that the pond is certainly not the only source, **or may not be a source at all**, so somewhere there is your bandwidth of potential, you know, level of contribution.

(emphasis added). *See, Ex. C* to the State's reply brief supporting its first summary judgment motion (Church Depo., p. 28, ll. 3-10; p. 45, ll. 3-20). Thus, Mr. Church does not testify that the pond is a contributing source of water into Plaintiffs' house. And, as discussed in the State's opening brief, it is well-established that causation testimony based on "possibility" cannot defeat a summary judgment motion. Hinkle v. Shepherd Sch. Dist. # 37, 322 Mont. 80, ¶¶ 35-38 (2004); Butler v. Domin, 302 Mont. 452, ¶22 (2000); *see, also*, Miller v. Herbert, 272 Mont. 132, 137-38 (1995) and Nelson v. Montana Power Co., 256 Mont. 409, 412 (1993). The same is true for causation testimony based on "suspicion" or "speculation." Thelen v. Billings, 238 Mont. 82 (1989) (expert's speculation as to potential sources of water into plaintiffs' basement insufficient to defeat summary judgment); Glacier Tennis Club at the Summit, LLC v. Treweek Constr. Co., 320 Mont. 351, ¶¶36-37 (1994).

Finally, Plaintiffs' assertion on p. 3 of their answer brief that Mr. Church's deposition testimony "left [them] with the argument that that [the pond as a possible contributing source of water] could be substantial" lacks merit. Plaintiffs' arguments as to the source of the water in their house are meaningless without the necessary expert testimony to support them. Here, Plaintiffs have not disclosed expert testimony establishing on a "more likely than not" basis that the pond is a contributing source (let alone a substantial contributing source) of the water into their house.

In summary, because, Plaintiffs have not disclosed expert testimony establishing, on a "more likely than not" basis, that the pond is the source (*i.e.*, cause) of the water in their house, their nuisance lawsuit should be dismissed with prejudice.

B. Plaintiffs' Failure To Disclose Necessary Expert Testimony Establishing The Applicable Standard Of Care For Maintenance Of The Pond, That Anyone Responsible For Pond Maintenance Departed From That Standard, And That Any Such Departure Caused Them Any Harm Requires Dismissal Of Their Nuisance Claim

Plaintiffs also do not dispute that expert testimony is necessary to establish the applicable standard of care for maintenance of the pond, that anyone responsible for pond maintenance departed from that standard, and that any such departure caused them any harm.

Plaintiffs' assertion on p. 2 of their answer brief that they need not address the State's argument that they have failed to produced expert testimony on the applicable standard of care for maintenance of the pond because the State states in its opening brief "assuming solely for argument's sake that DEQ has a duty to maintain the pond" lacks merit. Duty and standard of care, although connected, are distinct concepts. As the State discussed on p. 5 of its opening brief, standard of care defines the defendant's duty – it is the degree of prudence, attention, and caution the defendant must exercise in fulfilling that duty of care. Dubiel v. Mont. DOT, 364 Mont. 175, ¶14 (2012); Romans v. Lusin, 299 Mont. 182, ¶35 (2000). Because Plaintiffs do not dispute that expert testimony is necessary to establish the applicable standard of care and because they have not produced such testimony, the State's second summary judgment motion should be granted.

As concerns departure from the standard of care and causation of harm, Plaintiffs' reliance on the unsworn and unauthenticated Church report to provide the necessary expert testimony lacks merit, not only for the reasons discussed above, but also because the Church report says absolutely nothing about standard of care, departure from the standard, or that any such departure caused harm.

The State has disclosed the expert testimony of Tim Stepp and Rick Thompson that installation of a clay liner in the storm water pond did not depart from the standard of care but, in fact, exceeded the standard of care as no liner of

any sort was necessary. *See*, §III above. Plaintiffs have disclosed no expert testimony to the contrary. Thus, Plaintiffs' new and unpled allegation that the State's purported negligence consists of not repairing the clay liner or somehow preventing it from deteriorating lacks merit. As the standard of care did not require installation of any type of liner, the lack of liner repair or measures to prevent liner deterioration did not depart from the standard of care.

In summary, as discussed in the State's opening brief, DEQ is a state agency that regulates landfill facilities under the Montana Solid Waste Management Act (MCA §75-10-201 *et seq.*). Assuming solely for argument's sake that DEQ has a duty to maintain the pond, the standard of care applicable to maintenance of a storm water pond (not only in general, but specifically for a state regulatory agency such as DEQ under the circumstances, factual and legal, prevailing in this case) requires expert testimony. Because Plaintiffs have not disclosed expert testimony establishing, on a "more likely than not" basis, the applicable standard of care, how anyone responsible for pond maintenance departed from that standard, and that any such departure caused their alleged damages, their nuisance lawsuit should be dismissed with prejudice.

As a final note, Plaintiffs' assertion on p. 2 of their answer brief that they were not required to allege negligence in their Complaint lacks merit. That is

exactly what the Montana Supreme Court held in Barnes v. City of Thompson Falls, 294 Mont. 76, ¶25 (1999):

However, in bringing a qualified nuisance action, a plaintiff must do more than simply plead the existence of the statutorily authorized activity or facility claimed to constitute a nuisance; such plaintiff must, in addition, plead and prove the defendant's negligence and the resulting 'injurious' consequences of that activity or facility to plaintiffs 'comfortable enjoyment of life or property.'

Here, Plaintiffs alleged nothing more in their Complaint than that the pond constituted a nuisance for which the State was somehow responsible. They did not allege any negligence by the State – *i.e.*, allege what the State did wrong. As discussed in the State's opening brief, Plaintiffs cannot amend their Complaint by raising a negligence theory for the first time in their answer brief (Nimmick v. Hart, 248 Mont. 1, 11 (1991)) or after the filing of the State's summary judgment motion (Peuse v. Malkuch, 275 Mont. 221, 228 (1996); Eagle Ridge Ranch Ltd. Partnership v. Park County, 283 Mont. 62, 68 (1997)).

C. **Plaintiffs Failure To Disclose Necessary Expert Testimony Establishing That The Source Of The Water In Their House Is Reasonably Abatable (*i.e.*, Not Permanent) Requires Dismissal Of Their Nuisance Claim As Forever Barred By The 2-Year Statute Of Limitations**

Plaintiffs also do not dispute that expert testimony is necessary to establish that the source of the water in their house is reasonably abatable (*i.e.*, not permanent). Again, Plaintiffs' reliance on the unsworn and unauthenticated

Church report to provide the necessary expert testimony lacks merit for the reasons discussed above.

In addition, Mr. Church's undisputed testimony is that "the source of the water is likely a natural geologic, hydrogeologic condition rather than the pond itself." *See, Ex. A* attached to the State's opening brief (Church Depo., p. 26, ll. 22-24). Plaintiffs have produced no evidence to the contrary, specifically the expert testimony necessary to establish whether this natural condition is reasonably abatable (*i.e.*, not permanent). Moreover, even assuming solely for argument's sake that the pond is the source (or a contributing source) of water in their house, Plaintiffs have produced no expert testimony to establish that any engineering measures would abate the water into their home.

Because Plaintiffs have not satisfied their burden of showing that the source of the water in their house is reasonably abatable (*i.e.*, is not permanent) all nuisance liability concerning water in their house has been forever extinguished by the 2-year statute of limitations. Accordingly, Plaintiffs nuisance claim should be dismissed with prejudice.

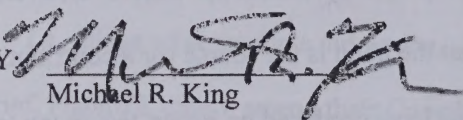
V. Conclusion

As discussed above and in the State's opening brief, Plaintiffs do not dispute that expert testimony is necessary to establish: 1) that the pond is the source of the water in their house, 2) the applicable standard of care for maintenance of the

pond, 3) that anyone responsible for pond maintenance departed from that standard, 4) that any such departure caused them any harm, and 5) for statute of limitations purposes, that the source of the water in their house is reasonably abatable (*i.e.*, not permanent). Because they have not disclosed the necessary expert testimony on these matters, the State respectfully requests that their nuisance claim be dismissed with prejudice.

Dated this 29 day of April, 2015.

BY:


Michael R. King

CERTIFICATE OF SERVICE

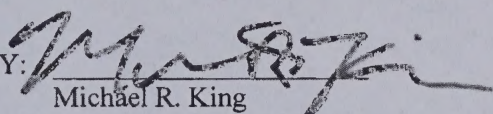
I certify that a true and correct copy of the foregoing was served by U.S.

Mail, postage prepaid, this 29 day of April, 2015 upon:

Torger Oaas
Attorney At Law
618 West Main, Ste. 201
POB 76
Lewistown, MT 59457

Mark M. Smith
Church, Harris, Johnson & Williams, P.C.
114 Third Street South
P. O. Box 1645
Great Falls, MT 59403-1645

BY:


Michael R. King

